

## REMARKS

This Response is to the Final Office Action dated December 12, 2008. The Specification and Claims 1, 20, 21, 23 to 25, 37, 38, 46 and 53 have been amended. No new matter was added by these amendments. Claim 19 has been cancelled without prejudice or disclaimer. Applicants do not believe any fees are due. However, please charge Deposit Account No. 02-1818 for any amounts due in connection with this Response.

In the Office Action, the drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) because they allegedly do not include reference characters 118c and 119.

Regarding the objection related to reference character 118c, reference character 118c appears in Figures 1 and 3 (see Replacement Figures 1 and 3 filed August 4, 2008). Feature 118c is described on page 85, line 18 (“In a preferred embodiment, the clinician’s device is a personal digital assistant (‘PDA’) 118, such as shown in FIGURES 1 and 3, typically having a display 118a and *an audible tone or sound generator 118c.*”) [emphasis added]. The paragraph beginning on page 24, line 3 has been amended to clarify that the audible tone or sound generator 118c is shown in Figures 1 and 3. Therefore, Applicants respectfully request that this objection be withdrawn.

Regarding the objection related to reference character 119, the phrase “first central computer 119” in the paragraph beginning on page 25, line 11 appears to be a typographical error and has been amended to read “first central computer 109.” Throughout the specification, the feature identified as “first central computer” is numbered 109. See, for example, page 9, line 9 (“first central computer or server 109”); page 11, line 28 (“first central server 109”); page 12, line 23 (“first central computer 109”); page 13, line 22 (“first central computer (i.e., server 109”); and page 20, lines 29 to 30 (“first central computer 109”). First central computer 109 is shown in Figure 3. Thus, Applicants respectfully request that this objection be withdrawn.

Further, in the Office Action, Claims 1 to 58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,364,834 issued to Reuss et al. (“Reuss”) in view of U.S. Patent No. 6,057,758 issued to Dempsey (“Dempsey”). Applicants respectfully traverse these rejections in light of the claims as presented. Each of the claims amended herein were amended to further clarify the claimed invention and because they further prosecution. Applicants respectfully request that the amendments be entered at this final rejection.

Applicants have incorporated the features of dependent Claim 19, cancelled herein, into independent Claim 1. Amended Claim 1 includes determining if a first clinician's device is active and if the first clinician's device is active, transmitting the signal relating to the alarm or alert condition to the first clinician's device.

Regarding dependent Claim 19, the Office Action referenced column 9 line 59 to column 10, line 5 of *Reuss*, which state:

The Message Server Task 210 maintains a list of information on messages which have been queued, including status (sent, acknowledged, canceled, etc.). In addition to initiating delivery of a message, this task also determines if a delivery has failed, and optimizes use of the memory reserved for message storage inside of the remote access device. If a alert delivery fails, either because it could not be sent or was not acknowledged in a predetermined time period, the Message Server Task 210 can send an alarm to the central monitoring system or alternatively transmit the message to an alternative recipient. Any message to be sent to a remote access device, e.g., a medical alert message, is passed along to the appropriate Device Task (see below).

The Office Action states that: "Reuss discloses a method of contacting an alternative recipient if a response from a primary recipient is not generated within a predefined time period, therefore, the device of the primary recipient can be deemed inactive." Applicants respectfully disagree with this reading of *Reuss*. Regardless, *Reuss* does not disclose determining if a first clinician's device is active and *if* the first clinician's device is active, *transmitting* the signal relating to the alarm or alert condition to a first clinician's device. In *Reuss*, a failure on the part of an initial recipient to reply may result in a message being sent to an alternative recipient. However, this does not mean the message is not sent to the initial recipient. In Claim 1, unlike *Reuss*, the alarm or alert condition is not transmitted to the first clinician's device until after a determination is made that the first clinician's device is active. This conserves system resources by avoiding the sending of alerts that will not have a recipient, such that they can immediately be sent to active recipient devices. Claim 53 has been amended in a similar manner to Claim 1. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of Claims 1 and 53 and the claims depending therefrom.

Amended independent claim 37 includes *transmitting the signal relating to the alarm or alert condition to a second clinician's device and elevating the signal sent to the first clinician's device by use of a feature selected from the group consisting of: (a) a larger font and (b) a*

*flashing display.* The Office Action alleges that column 10, lines 49 to 59 of *Reuss* disclose a tool to enhance sound, but was unable to reference disclosure in *Reuss or Dempsey* of elevating a signal using a larger font or of a flashing display. Accordingly, a *prima facia* case of obviousness has not been made because all the elements of Claim 37 have not been found in the cited combination of references. Applicants respectfully request that the Examiner withdraw the rejection of Claim 37 and the claims depending therefrom.

For at least these reasons, Applicants respectfully submit that Claims 1 to 52 are patentable over the combination of *Reuss* and *Dempsey* and in condition for allowance.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of same.

Respectfully submitted,

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